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ATTORNEY FOR APPELLANT:

JOHN PINNOW
Greenwood, Indiana

ATTORNEYS FOR APPELLEE:

STEVE CARTER
Attorney General of Indiana

MAUREEN ANN BARTOLO
Deputy Attorney General
Indianapolis, Indiana

**IN THE
COURT OF APPEALS OF INDIANA**

CHARLES E. KNOWLES, JR.,

Appellant-Defendant,

vs.

STATE OF INDIANA,

Appellee-Plaintiff.

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No. 92A03-0609-CR-434

APPEAL FROM THE WHITLEY CIRCUIT COURT
The Honorable James R. Heuer, Judge
Cause No. 92C01-0505-FB-91

June 18, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

VAIDIK, Judge

Case Summary

Charles Knowles, Jr. (“Knowles”) appeals his convictions for Attempting to Manufacture Methamphetamine and Theft. Knowles contends that, under the incredible dubiousity doctrine, there is insufficient evidence that he attempted to aid in the manufacture of methamphetamine and in the stealing of anhydrous ammonia to sustain his convictions. We conclude that the incredible dubiousity doctrine does not apply to these facts and that there was sufficient evidence to allow a jury to reasonably find Knowles guilty of both crimes. Therefore, we affirm the judgment of the trial court.

Facts and Procedural History

During the spring of 2005, Knowles was unemployed and living in the home of his best friend, Richard Rollins (“Rollins”). On the afternoon of May 25, the two men, along with Rollins’ high school classmate James Scott (“Scott”), were together in the home. Rollins and Scott had just purchased the materials needed to manufacture methamphetamine, including hundreds of cold pills, lithium batteries, drain cleaner, salt, and a cooler. Knowles, having just returned to the home, assisted the other two men in their manufacturing process by removing the cold pills from their packaging.

That night, in exchange for a portion of the finished methamphetamine, Knowles agreed to drive the men to a location nearly an hour away so they could steal the anhydrous ammonia they needed to finish manufacturing the methamphetamine. The men instructed Knowles to drop them off a mile away from the anhydrous ammonia tank, as to be inconspicuous, and to return an hour later. Rollins and Scott then walked a mile to the tank, extracted anhydrous ammonia from the tank into a cooler, and then mixed the

anhydrous ammonia with cold pills and lithium. When Knowles returned to the drop-off location, he turned off the headlights, and the other two men quickly entered the vehicle.

In the meantime, Deputy Tony Helfrich (“Deputy Helfrich”) was patrolling the area, even though there were only two homes nearby, because the police department had received reports of thefts from the anhydrous ammonia tanks near Knowles’ drop-off location. Deputy Helfrich saw Knowles turn off his headlights and decided to follow Knowles’ vehicle from the site. Once back-up arrived, Deputy Helfrich turned on his emergency lights and pursued Knowles. Knowles did not pull over, however, and led the officers on a high-speed chase through country roads, reaching speeds of up to ninety miles per hour. Knowles eventually drove across a ditch, through a bean field, and into a cemetery, shattering several headstones along the way. Knowles, Rollins, and Scott fled from the vehicle and were not apprehended until early the next morning.

Upon searching the vehicle, officers observed two firearms, several cans of ether, drain cleaner, plastic containers, a gas can containing an acid and salt mixture, plastic tubing, homemade fittings, and other tools. The vehicle contained traces of ether, sulfuric acid, sodium chloride, ephedrine, and methamphetamine. The officers also found the cooler, containing the chemical mixture, discarded on the road.

Before trial, Knowles admitted to Detective William Simpson (“Detective Simpson”) that he planned to receive some methamphetamine as compensation for driving Scott and Rollins that night. Scott, in his initial statements to police, denied stealing anhydrous ammonia or attempting to make amphetamine.

The State charged Knowles with: Count I, Attempt to Manufacture Methamphetamine as a Class B felony;¹ Count II, Theft as a Class D felony;² Count III, Receiving Stolen Property as a Class D felony;³ Count IV, Auto Theft as a Class D felony;⁴ Count V, Resisting Law Enforcement as a Class A misdemeanor;⁵ Count VI, Resisting Law Enforcement as a Class D felony;⁶ and Count VII, Criminal Mischief as a Class A misdemeanor.⁷ Count III was dismissed before trial.

A jury trial commenced on May 31, 2006. At trial, Scott contradicted his pre-trial statements by testifying that he, along with Knowles and Rollins, were all guilty of stealing the anhydrous ammonia and attempting to manufacture methamphetamine. The jury found Knowles guilty on Counts I, II, VI and VII.⁸ Knowles was sentenced to ten years with two years suspended on Count I, along with one and one-half years each on Counts II and VI and one year on Count VII to be served concurrently with Count I, for a total executed sentence of eight years. Knowles appeals his convictions on Count I, Attempt to Manufacture Methamphetamine, and Count II, Theft.

¹ Ind. Code § 35-48-4-1 (2005); Ind. Code § 35-41-5-1. In 2006, the legislature amended Indiana Code § 35-48-4-1 to remove “or methamphetamine” from the language. The new statute concerning the manufacture of methamphetamine is Indiana Code § 35-48-4-1.1 (2006).

² Ind. Code § 35-43-4-2.

³ *Id.* The State actually charged Knowles under Indiana Code § 35-43-4-2.5, but that statute pertains to stolen auto parts, and Count III charged Knowles with having received a stolen gun.

⁴ Ind. Code § 35-43-4-2.5.

⁵ Ind. Code § 35-44-3-3.

⁶ *Id.* at (b)(1)(A).

⁷ Ind. Code § 35-43-1-2(a)(2)(A)(i).

⁸ The jury was not instructed on Counts IV and V, and there is no indication of what became of those counts.

Discussion and Decision

Knowles' sole argument on appeal is that "[t]he evidence is insufficient to prove [he] knowingly or intentionally aided Scott and Rollins in attempting to manufacture methamphetamine and in the theft of the anhydrous ammonia because Scott's testimony is incredibly dubious." Appellant's Br. p. 12. We disagree.

In reviewing a claim of insufficient evidence, we will affirm the conviction unless, considering only the evidence and reasonable inferences favorable to the judgment, and neither reweighing the evidence nor judging the credibility of the witnesses, we conclude that no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt. *Robertson v. State*, 765 N.E.2d 138, 139 (Ind. 2002), *reh'g denied*. Pursuant to the narrow limits of the "incredible dubiosity" doctrine, a reviewing court may infringe upon a jury's function to determine the credibility of witnesses. *Dillard v. State*, 755 N.E.2d 1085, 1089 (Ind. 2001). The incredible dubiosity doctrine provides that if a sole witness presents inherently improbable testimony, and there is a complete lack of circumstantial evidence, a defendant's conviction may be reversed. *Id.* This is appropriate only where the court has confronted inherently improbable testimony or coerced, equivocal, wholly uncorroborated testimony of incredible dubiosity. *Id.* Application of this rule is rare, and the standard to be applied is whether the testimony is so incredibly dubious or inherently improbable that no reasonable person could believe it. *Id.*

The incredible dubiosity doctrine is not applicable to the facts of this case. Knowles first argues that Scott's testimony was incredibly dubious because it differed

from Scott's pre-trial statements to police. However, we note that the incredible dubiousity rule applies to conflicts in trial testimony rather than conflicts that exist between trial testimony and statements made to police before trial. *Buckner v. State*, 857 N.E.2d 1011, 1018 (Ind. Ct. App. 2006).

Furthermore, there is not a complete lack of circumstantial evidence against Knowles. Knowles dropped off and later picked up the other two men at a location a mile away from an anhydrous ammonia tank, and Deputy Helfrich observed Knowles turn off the vehicle's lights when picking up the two men. Knowles also led police on a high-speed chase into a cemetery and eventually fled on foot. *See Jacobs v. State*, 802 N.E.2d 995, 998 (Ind. Ct. App. 2004) (flight from the scene of a crime may be considered circumstantial evidence of guilt). Police found a mixture of anhydrous ammonia, cold pills, and lithium in the cooler that was discarded from Knowles' vehicle during the high-speed chase. In the vehicle Knowles was driving, police found traces of methamphetamine, precursors and cookware commonly associated with the manufacture of methamphetamine, and homemade fittings often utilized in obtaining anhydrous ammonia from tanks.

Finally, the incredible dubiousity doctrine does not apply because Scott's testimony as to Knowles' guilt is not wholly uncorroborated. Specifically, Detective Simpson testified that Knowles originally admitted to police that he was driving Scott and Rollins because they were in the process of making methamphetamine and that he was going to receive a portion of the finished product as compensation for driving the men to the drop-off location.

Scott's testimony, the admissions made by Knowles to police, and the circumstantial evidence concerning the police chase, the subsequent fleeing on foot, and the contents of the vehicle are sufficient to allow a jury to reasonably find Knowles guilty on both counts.

Affirmed.

SULLIVAN, J., and ROBB, J., concur.